

## UNITED STATES DISTRICT COURT

for the  
District of ArizonaDWA  
8/7/17  
United States of America )

v. )

Marcial Leyva Huicochea,  
a.k.a.: Marcial Leyva-Huicochea,  
a.k.a.: Marcial Huicochea Leyva,  
(A095 767 290)

Defendant )

Case No. 17-294 MJ

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of October 12, 2012, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), an offense described as follows:

Marcial Leyva Huicochea, an alien, was found in the United States of America at or near Chandler, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about May 29, 2010, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1).

I further state that I am a Deportation Officer.

This criminal complaint is based on these facts:

**See Attached Statement of Probable Cause Incorporated By Reference Herein**

CEB

REVIEWED BY: Charles E. Bailey, P.S. for AUSA Amy Brown

☒ Continued on the attached sheet.

Complainant's signature

Salvador Delgado II,  
Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: August 8, 2017



Judge's signature

City and state: Phoenix, Arizona

Michelle H. Burns,  
United States Magistrate Judge

Printed name and title

## STATEMENT OF PROBABLE CAUSE

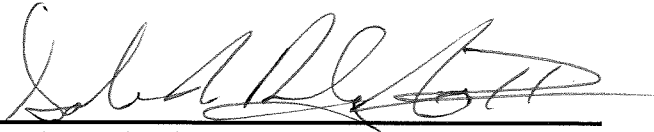
I, Salvador Delgado II, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Deportation Officer with United States Immigration and Customs Enforcement (ICE). I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On October 12, 2012, Marcial Leyva Huicochea was encountered by the Chandler Police Department and booked into the Chandler City Jail (CCJ) on local charges. While incarcerated at the CCJ, Leyva Huicochea was examined by Immigration Enforcement Agent B. Pratt who determined Leyva Huicochea to be a Mexican citizen, illegally present in the United States. On the same date, an immigration detainer was lodged with the CCJ. On August 7, 2017, Leyva Huicochea was released from the Arizona Department of Corrections and transported to the Florence ICE office for further investigation and processing. Leyva Huicochea was held in administrative custody until his criminal and immigration records could be obtained and his identity confirmed.
3. Immigration history checks revealed Marcial Leyva Huicochea to be a citizen of Mexico and a previously deported criminal alien. Leyva Huicochea was removed from the United States to Mexico through Nogales, Arizona, on or about May 29, 2010, pursuant to an order of removal issued by an immigration official. There is no

record of Leyva Huicochea in any Department of Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal. Marcial Leyva Huicochea's immigration history was matched to him by electronic fingerprint comparison.

4. Criminal history checks revealed that Marcial Leyva Huicochea was convicted of Possession of Marijuana for Sale, a felony offense, on January 14, 2009, in the Superior Court of Arizona, Maricopa County. Leyva Huicochea was sentenced to three and one half (3.5) years' incarceration. Leyva Huicochea's criminal history was matched to him by electronic fingerprint comparison.
5. On August 7, 2017, Marcial Leyva Huicochea was advised of his constitutional rights. Leyva Huicochea freely and willingly acknowledged his rights and agreed to provide a statement under oath. Leyva Huicochea stated that his true and complete name is Marcial Leyva Huicochea and that he is a citizen of Mexico. Leyva Huicochea stated that he illegally entered the United States at or near "Sonorita," on "unknown date," without inspection by an immigration officer. Marcial Leyva Huicochea further stated that he had been removed from the United States to Mexico and did not receive permission from the Secretary of the Department of Homeland Security to re-enter the United States after his removal.
6. For these reasons, this affiant submits that there is probable cause to believe that on or about October 12, 2012, Marcial Leyva Huicochea, an alien, was found in the United States of America at or near Chandler, in the District of Arizona, after having been

previously denied admission, excluded, deported, and removed from the United States at or near Nogales, Arizona, on or about May 29, 2010, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1).



Salvador Delgado II,  
Deportation Officer,  
Immigration and Customs Enforcement

Sworn to and subscribed before me  
this 8<sup>th</sup> day of August, 2017.



Michelle H. Burns,  
United States Magistrate Judge